

Internal Revenue Service

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Department of the Treasury

Washington, DC 20224

Third Party Communication: None

Date of Communication: Not Applicable

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:INTL:B06

PLR-139307-13

Date:

February 19, 2014

In re:

TY:

LEGEND

Taxpayer =

Accounting Firm =

Individual =

Company =

Law Firm =

Year 1 =

Year 2 =

Date 1 =

Dear :

This responds to a letter dated August 18, 2013, submitted by Accounting Firm requesting that the Internal Revenue Service ("Service") grant Taxpayer an extension of time under Treas. Reg. §§ 301.9100-1 and 301.9100-3 to file Form 4876-A ("Election To Be Treated as an Interest Charge DISC") for Taxpayer's first taxable year.

The rulings contained in this letter are based upon information and representations submitted by Taxpayer and Accounting Firm and accompanied by affidavits and penalty of perjury statements executed by appropriate parties. This office has not verified any of the materials submitted in support of the request for rulings. It is subject to verification on examination.

FACTS

Taxpayer is a domestic corporation wholly owned by Individual. Individual is President of Taxpayer. Taxpayer was formed for the sole purpose of qualifying and operating as

an interest charge domestic international sales corporation (“IC-DISC”). Taxpayer operates under a commission arrangement with Company.

In Year 1, Individual, Accounting Firm, and Law Firm discussed the benefits of forming an IC-DISC. After Individual decided to form an IC-DISC, he directed Accounting Firm and Law Firm to coordinate with each other and to complete and file the documents necessary to incorporate Taxpayer. Individual also directed Accounting Firm and Law Firm to perform all necessary steps to qualify Taxpayer as an IC-DISC for federal tax purposes. In coordinating with Law Firm, Accounting Firm agreed it would file Form 4876-A; however, due to a miscommunication between two shareholders of Accounting Firm performing work on the matter, Form 4876-A was not filed.

Taxpayer was incorporated on Date 1 as a calendar year taxpayer. Taxpayer relied on Accounting Firm and Law Firm as legal and tax service providers with the experience to perform all required steps to qualify Taxpayer as an IC-DISC and file the necessary forms. Believing all the requirements to conduct business and be treated as an IC-DISC for its first taxable year were satisfied, Taxpayer began acting as an IC-DISC as of its date of formation.

In Year 2, Accounting Firm prepared a Form 1120-IC-DISC for Taxpayer’s first taxable year. At that time, Accounting Firm realized that Form 4876-A had not been filed.

Taxpayer has requested a ruling that grants an extension of time of 60 days from the date of the ruling letter to file Form 4876-A and that such filing will be treated as a timely election to be treated as an IC-DISC for Taxpayer’s first taxable year.

LAW AND ANALYSIS

Section 992(b)(1)(A) provides that an election by a corporation to be treated as a DISC¹ shall be made by such corporation for a taxable year at any time during the 90-day period immediately preceding the beginning of the taxable year, except that the Secretary may give his consent to the making of an election at such other times as he may designate.

Temp. Treas. Reg. § 1.921-1T(b)(1) provides, in part, that a corporation electing IC-DISC status must file Form 4876-A and that a corporation electing to be treated as an IC-DISC for its first taxable year shall make its election within 90 days after the beginning of that year.

Treas. Reg. § 301.9100-1(c) provides, in part, that the Commissioner, in exercising the Commissioner’s discretion, may grant a reasonable extension of time under the rules

¹ As used in this letter, the terms “IC-DISC” and “DISC” have the same meaning.

set forth in Treas. Reg. §§ 301.9100-2 and 301.9100-3 to make a regulatory election under all subtitles of the Code except subtitles E, G, H, and I.

Treas. Reg. § 301.9100-1(b) provides that a regulatory election is an election whose due date is prescribed by a regulation published in the Federal Register, or a revenue ruling, revenue procedure, notice, or announcement published in the Internal Revenue Bulletin. For this purpose, an election includes an application for relief in respect of tax.

Treas. Reg. § 301.9100-3(a) provides that requests for extensions of time for regulatory elections that do not meet the requirements of Treas. Reg. § 301.9100-2 (automatic extensions) must be made under the rules of Treas. Reg. § 301.9100-3. Requests for relief subject to Treas. Reg. § 301.9100-3 will be granted when the taxpayer provides the evidence (including affidavits described in Treas. Reg. § 301.9100-3(e)) to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and that the grant of relief will not prejudice the interests of the Government.

In the present situation, the election described in Temp. Treas. Reg. § 1.921-1T(b)(1) is a regulatory election as defined in Treas. Reg. § 301.9100-1(b). Therefore, the Commissioner has discretionary authority under Treas. Reg. § 301.9100-1(c) to grant Taxpayer an extension of time, provided that Taxpayer satisfies the standards for relief set forth in Treas. Reg. § 301.9100-3.

Based on the facts and representations submitted with Taxpayer's ruling request, we conclude that Taxpayer satisfies Treas. Reg. § 301.9100-3(a). Accordingly, Taxpayer is granted an extension of time of 60 days from the date of this ruling letter to file Form 4876-A. Such filing will be treated as a timely election to be treated as an IC-DISC for Taxpayer's first taxable year.

The granting of an extension in this ruling letter is not a determination that Taxpayer is otherwise eligible to make the election or to claim IC-DISC status or benefits. See Treas. Reg. § 301.9100-1(a). Taxpayer should attach a copy of this ruling letter to its Federal income tax return for the taxable years to which this letter applies.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent. Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

Pursuant to a Power of Attorney on file in this office, copies of this ruling letter are being furnished to your authorized representative.

Sincerely,

Christopher J. Bello
Chief, Branch 6
Office of Associate Chief Counsel (International)

Enclosures (2)
Copy of this letter
Copy for § 6110 purposes